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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

Arizona Corporation Commission

DOCKETED

OCT 12 2010

DOCKETED BY [Signature]

In the matter of
FIVE STAR TREE SERVICE AND
LANDSCAPES, LLC, an Arizona limited
liability company,
RICHARD MCCULLUM, JR., and
LEAH ATWOOD,
Respondents.

DOCKET NO. S-20715A-09-0564

DECISION NO. 71919

ORDER TO CEASE AND DESIST, ORDER
FOR RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME
BY: RESPONDENT FIVE STAR TREE
SERVICE AND LANDSCAPES, LLC,
RESPONDENT RICHARD MCCULLUM, JR.
AND RESPONDENT LEAH ATWOOD

FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD MCCULLUM, JR.
and LEAH ATWOOD elect to permanently waive any right to a hearing and appeal under Articles
11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 et seq. ("Securities Act") with respect
to this Order To Cease and Desist, Order For Restitution, Order For Administrative Penalties and
Consent To Same ("Order"). FIVE STAR TREE SERVICE AND LANDSCAPES, LLC,
RICHARD MCCULLUM, JR. and LEAH ATWOOD admit the jurisdiction of the Arizona
Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and
Conclusions of Law contained in this Order; and consent to the entry of this Order by the
Commission.

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I.

FINDINGS OF FACT

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3 1. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC (“FIVE STAR TREE”),
4 is an Arizona limited liability company formed on July 29, 2002. FIVE STAR TREE is a manager-
5 managed limited liability company.

6 2. RICHARD MCCULLUM, JR. (“R. MCCULLUM JR.”), at all relevant times, was
7 an Arizona resident married to LEAH ATWOOD. According to the agreements signed with
8 investors, R. MCCULLUM JR. is the managing member of FIVE STAR TREE. In addition, R.
9 MCCULLUM JR. is a co-signer on the FIVE STAR TREE bank account.

10 3. FIVE STAR TREE and R. MCCULLUM JR. may also be referred to as
11 “Respondents.”

12 4. LEAH ATWOOD (“ATWOOD”), at all relevant times, was an Arizona resident
13 married to R. MCCULLUM JR. According to the Articles of Organization, ATWOOD is the
14 managing member of FIVE STAR TREE. ATWOOD is the co-signer on the FIVE STAR TREE
15 bank account.

16 5. At all relevant times, R. MCCULLUM JR. and ATWOOD were acting for their own
17 benefits and for the benefit of and in furtherance of the marital community.

18 6. The marriage between R. MCCULLUM JR. and ATWOOD was annulled on
19 September 1, 2010.

20 7. Beginning in or around July of 2008, through the present, FIVE STAR TREE and
21 R. MCCULLUM JR., while in Arizona, began offering and selling investment opportunities to out-
22 of-state investors. FIVE STAR TREE and R. MCCULLUM JR. told investors that the funds would
23 be invested in “common fund for the purpose of entering into Private Placement Program[s].”
24 FIVE STAR TREE and R. MCCULLUM JR. raised \$200,000 from three investors located outside
25 of Arizona. FIVE STAR TREE and R. MCCULLUM JR made one payment of \$2,500 to one
26 investor.

1 8. R. MCCULLUM JR. told the investors that the money would be used to invest in a
2 “trading platform.” At least one investor was told that the investment was guaranteed to pay 500
3 percent in 15 days. Another investor was told that the chosen program was a “five times money
4 program” in which the return to the investor would be five times the amount invested, to be paid
5 back in ten days. The Investors’ only obligation were to invest money.

6 9. R. MCCULLUM JR. stated that he had arrangements with a “Foundation” which
7 had the “trading platform” for investors. R. MCCULLUM JR. stated that he would pool the
8 investors’ funds to reach the minimum one million dollar investment figure.

9 10. R. MCCULLUM JR., as “Agent” of FIVE STAR TREE, entered into “Joint Venture
10 Agreement” (“JV Agreement”) with each investor. According to the JV Agreements, investors
11 “make contributions to a common fund for the purpose of entering into Private Placement Program
12 (PPP) for a minimum of USD One Million Dollars (US \$1,000,000.00), called the business
13 interest.” The JV Agreement further stated that the “Joint Venture [is] to acquire and hold the
14 business interest in common and to provide the finances required to enter into the Private
15 Placement Program.” The investors receive an “undivided fractional part in the business interest.”

16 11. The JV Agreement further stated that FIVE STAR TREE would act as the
17 “nominee” for the investors. The investment will be held in the name of R. MCCULLUM JR. on
18 behalf of FIVE STAR TREE. R. MCCULLUM JR., on behalf of FIVE STAR TREE, will “pay a
19 total profit to the [investor] 5 times the money within 15 business days of receipt of funds earned
20 profits from the PPP [Private Placement Program].” R. MCCULLUM JR. signed the JV
21 Agreements as the “managing member” of FIVE STAR TREE.

22 12. The investors’ funds were pooled into one bank account. R. MCCULLUM JR.
23 instructed the investors to wire their investment funds directly to the bank account of FIVE STAR
24 TREE controlled by R. MCCULLUM JR. and ATWOOD. In some instances, immediately after the
25 wire transfer was credited to the FIVE STAR TREE bank account, R. MCCULLUM JR. and
26 ATWOOD withdrew the investors’ funds to pay personal expenses.

1 or misleading omissions of material facts, and (c) engaging in transactions, practices, or courses of
2 business that operate or would operate as a fraud or deceit. Specifically,

3 a. FIVE STAR TREE and R. MCCULLUM JR. represented to offerees and
4 investors that their investment funds would be used to fund the purchase of a
5 "Private Placement Program" when in fact the funds were used to pay personal
6 expenses of FIVE STAR TREE and R. MCCULLUM JR.; and

7 b. FIVE STAR TREE and R. MCCULLUM JR. misrepresented to offerees and
8 investors that the investment was guaranteed to pay 500 percent in 15 days when
9 in fact the funds were used to pay personal expenses and no funds appear to
10 have been invested in any type of trading platform.

11 6. ATWOOD directly or indirectly controlled FIVE STAR TREE within the meaning of
12 A.R.S. § 44-1999. Therefore, ATWOOD is jointly and severally liable under A.R.S. § 44-1999 to the
13 same extent as FIVE STAR TREE for any violations of A.R.S. § 44-1991.

14 7. The conduct by FIVE STAR TREE, R. MCCULLUM, JR and ATWOOD are
15 grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

16 8. The conduct by FIVE STAR TREE, R. MCCULLUM JR. and ATWOOD are
17 grounds for an order of restitution pursuant to A.R.S. § 44-2032.

18 9. The conduct by FIVE STAR TREE, R. MCCULLUM JR. and ATWOOD are
19 grounds for administrative penalties under A.R.S. § 44-2036.

20 10. R. MCCULLUM JR. and ATWOOD acted for the benefit of their marital
21 community and, pursuant to A.R.S. §§ 25-214 and 25-215, this Order of restitution and
22 administrative penalties is a debt of the community.

23 **III.**

24 **ORDER**

25 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and FIVE STAR
26 TREE SERVICE AND LANDSCAPES, LLC's, RICHARD MCCULLUM, JR's. and LEAH

1 ATWOOD's consent to the entry of this Order, attached and incorporated by reference, the
2 Commission finds that the following relief is appropriate, in the public interest, and necessary for
3 the protection of investors:

4 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that FIVE STAR TREE SERVICE AND
5 LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD and any of their
6 agents, employees, successors and assigns, permanently cease and desist from violating the
7 Securities Act.

8 IT IS FURTHER ORDERED that FIVE STAR TREE SERVICE AND LANDSCAPES,
9 LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD comply with the attached Consent to
10 Entry of Order.

11 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that FIVE STAR TREE
12 SERVICE AND LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD,
13 individually, and the marital community of RICHARD MCCULLUM, JR. and LEAH ATWOOD,
14 jointly and severally, pay restitution to the Commission in the principal amount of \$197,500.
15 Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to
16 be placed in an interest-bearing account controlled by the Commission. Any principal amount
17 outstanding shall accrue interest at the rate of 10 percent per annum from the date of purchase until
18 paid in full. Interest in the amount of \$21,191.78 has accrued from the date of purchase to October
19 7, 2010.

20 The Commission shall disburse the funds on a pro-rata basis to investors shown on the
21 records of the Commission. Any restitution funds that the Commission cannot disburse because an
22 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an
23 investor because the investor is deceased and the Commission cannot reasonably identify and
24 locate the deceased investor's spouse or natural children surviving at the time of the distribution,
25 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the
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1 Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse
2 shall be transferred to the general fund of the state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that FIVE STAR TREE
4 SERVICE AND LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD, and
5 the marital community of RICHARD MCCULLUM, JR. and LEAH ATWOOD, jointly and
6 severally, shall pay an administrative penalty in the amount of \$25,000 if the full amount of
7 restitution and interest is paid by the date of this Order. If the full amount of restitution and interest
8 is not paid by the date of this Order, the administrative penalty will be \$50,000. Payment is due in
9 full on the date of this Order. Payment shall be made to the "State of Arizona." Any amount
10 outstanding shall accrue interest as allowed by law.

11 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
12 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
13 shall be applied to the penalty obligation.

14 For purposes of this Order, a bankruptcy filing by FIVE STAR TREE SERVICE AND
15 LANDSCAPES, LLC, RICHARD MCCULLUM, JR. or LEAH ATWOOD shall be an act of
16 default. If FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD MCCULLUM,
17 JR. or LEAH ATWOOD do not comply with this Order, any outstanding balance may be deemed
18 in default and shall be immediately due and payable.

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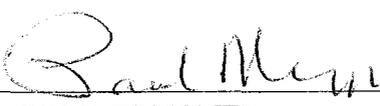
1 IT IS FURTHER ORDERED, that if FIVE STAR TREE SERVICE AND LANDSCAPES,
2 LLC, RICHARD MCCULLUM, JR. or LEAH ATWOOD fail to comply with this order, the
3 Commission may bring further legal proceedings against them, including application to the superior
4 court for an order of contempt.

5 IT IS FURTHER ORDERED that this Order shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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9 CHAIRMAN

COMMISSIONER

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11 COMMISSIONER

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11 COMMISSIONER

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11 COMMISSIONER

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13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this 11 day of October, 2010.

17 
18 ERNEST G. JOHNSON
19 EXECUTIVE DIRECTOR

20 _____
21 DISSENT

22 _____
23 DISSENT

24 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
25 Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

26 (wlc)

CONSENT TO ENTRY OF ORDER

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2 1. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
3 MCCULLUM, JR. and LEAH ATWOOD admit the jurisdiction of the Commission over the
4 subject matter of this proceeding. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC,
5 RICHARD MCCULLUM, JR. and LEAH ATWOOD acknowledge that they have been fully
6 advised of their right to a hearing to present evidence and call witnesses and they knowingly and
7 voluntarily waive any and all rights to a hearing before the Commission and all other rights
8 otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona
9 Administrative Code. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
10 MCCULLUM, JR. and LEAH ATWOOD acknowledge that this Order To Cease and Desist, Order
11 For Restitution, Order For Administrative Penalties and Consent To Same ("Order") constitutes a
12 valid final order of the Commission.

13 2. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
14 MCCULLUM, JR. and LEAH ATWOOD knowingly and voluntarily waive any right under Article
15 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary
16 relief resulting from the entry of this Order.

17 3. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
18 MCCULLUM, JR. and LEAH ATWOOD acknowledge and agree that this Order is entered into
19 freely and voluntarily and that no promise was made or coercion used to induce such entry.

20 4. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
21 MCCULLUM, JR. and LEAH ATWOOD understand and acknowledge that they have a right to
22 seek counsel regarding this Order, and that they have had the opportunity to seek counsel prior to
23 signing this Order. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
24 MCCULLUM, JR. and LEAH ATWOOD acknowledge and agree that, despite the foregoing, they
25 freely and voluntarily waive any and all right to consult or obtain counsel prior to signing this
26 Order.

1 5. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
2 MCCULLUM, JR. and LEAH ATWOOD neither admit nor deny the Findings of Fact and
3 Conclusions of Law contained in this Order. FIVE STAR TREE SERVICE AND LANDSCAPES,
4 LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD agree that they shall not contest the
5 validity of the Findings of Fact and Conclusions of Law contained in this Order in any present or
6 future proceeding in which the Commission or any other state agency is a party concerning the
7 denial or issuance of any license or registration required by the state to engage in the practice of
8 any business or profession.

9 6. By consenting to the entry of this Order, FIVE STAR TREE SERVICE AND
10 LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD agree not to take any
11 action or to make, or permit to be made, any public statement denying, directly or indirectly, any
12 Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is
13 without factual basis. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
14 MCCULLUM, JR. and LEAH ATWOOD will undertake steps necessary to assure that all of their
15 agents and employees understand and comply with this agreement.

16 7. While this Order settles this administrative matter between FIVE STAR TREE
17 SERVICE AND LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD and
18 the Commission, they understand that this Order does not preclude the Commission from instituting
19 other administrative or civil proceedings based on violations that are not addressed by this Order.

20 8. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
21 MCCULLUM, JR. and LEAH ATWOOD understand that this Order does not preclude the
22 Commission from referring this matter to any governmental agency for administrative, civil, or
23 criminal proceedings that may be related to the matters addressed by this Order.

24 9. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
25 MCCULLUM, JR. and LEAH ATWOOD understand that this Order does not preclude any other
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1 agency or officer of the state of Arizona or its subdivisions from instituting administrative, civil, or
2 criminal proceedings that may be related to matters addressed by this Order.

3 10. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
4 MCCULLUM, JR. and LEAH ATWOOD agree that they will not apply to the state of Arizona for
5 registration as a securities dealer or salesman or for licensure as an investment adviser or
6 investment adviser representative until such time as all restitution and penalties under this Order are
7 paid in full.

8 11. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
9 MCCULLUM, JR. and LEAH ATWOOD agree that they will not exercise any control over any
10 entity that offers or sells securities or provides investment advisory services within or from Arizona
11 until such time as all restitution and penalties under this Order are paid in full.

12 12. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
13 MCCULLUM, JR. and LEAH ATWOOD agree that they will not sell any securities in or from
14 Arizona without being properly registered in Arizona as a dealer or salesman, or exempt from such
15 registration; they will not sell any securities in or from Arizona unless the securities are registered
16 in Arizona or exempt from registration; and they will not transact business in Arizona as an
17 investment adviser or an investment adviser representative unless properly licensed in Arizona or
18 exempt from licensure.

19 13. RICHARD MCCULLUM, JR. and LEAH ATWOOD acknowledge that any
20 restitution or penalties imposed by this Order are the obligations of themselves and the marital
21 community.

22 14. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
23 MCCULLUM, JR. and LEAH ATWOOD consent to the entry of this Order and agree to be fully
24 bound by its terms and conditions.

25 15. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
26 MCCULLUM, JR. and LEAH ATWOOD acknowledge and understand that if they fail to comply

1 with the provisions of the order and this consent, the Commission may bring further legal
2 proceedings against them, including application to the superior court for an order of contempt.

3 16. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
4 MCCULLUM, JR. and LEAH ATWOOD understand that default shall render them liable to the
5 Commission for its costs of collection and interest at the maximum legal rate.

6 17. FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
7 MCCULLUM, JR. and LEAH ATWOOD agree and understand that if they fail to make any
8 payment as required in the Order, any outstanding balance shall be in default and shall be
9 immediately due and payable without notice or demand. FIVE STAR TREE SERVICE AND
10 LANDSCAPES, LLC, RICHARD MCCULLUM, JR. and LEAH ATWOOD agree and understand
11 that acceptance of any partial or late payment by the Commission is not a waiver of default by the
12 Commission.

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1 18. LEAH ATWOOD represents that she is the manager of FIVE STAR TREE
2 SERVICE AND LANDSCAPES, LLC and has been authorized by FIVE STAR TREE SERVICE
3 AND LANDSCAPES, LLC to enter into this Order for and on behalf of it.

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5 
6 RICHARD MCCULLUM, JR.

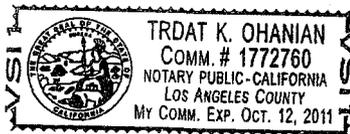
7 *California*
8 STATE OF ARIZONA)
9 County of *Los Angeles*) ss

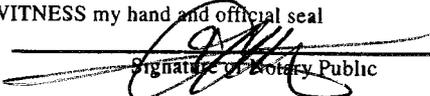
10 SUBSCRIBED AND SWORN TO BEFORE me this *23rd* day of *SEPT.*, 2010.

11 
12 NOTARY PUBLIC

13 My commission expires:

14 *OCT. 12, 2011*



17 State of: **California**
18 County of: **Los Angeles**
19 Subscribed and sworn to (or affirmed) before me
20 on this *23rd* day of *SEP*, 2010, by
21 *Richard McCullum, Jr.*
22 Personally known to me proved to me on the basis
23 of satisfactory evidence to be the person (s) who
24 appeared before me
25 WITNESS my hand and official seal
26 
Signature of Notary Public

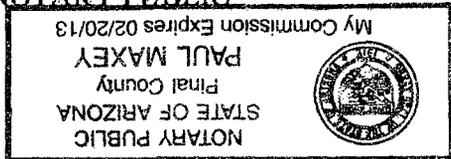
Leah Atwood
LEAH ATWOOD

STATE OF ARIZONA)
County of Pinal) ss

SUBSCRIBED AND SWORN TO BEFORE me this 27 day of Sept, 2010.

[Signature]
NOTARY PUBLIC

My commission expires:
02-20-13



FIVE STAR TREE SERVICE AND LANDSCAPES, LLC

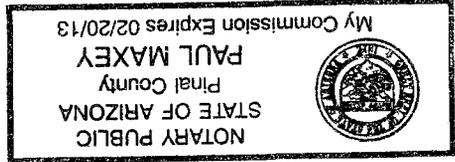
Leah Atwood
By LEAH ATWOOD,
Its Manager

STATE OF ARIZONA)
County of Pinal) ss

SUBSCRIBED AND SWORN TO BEFORE me this 27 day of Sept, 2010.

[Signature]
NOTARY PUBLIC

My commission expires:
02-20-13



1 SERVICE LIST FOR: FIVE STAR TREE SERVICE AND LANDSCAPES, LLC, RICHARD
MCCULLUM, JR. and LEAH ATWOOD

2

3 Docket Control
4 Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

5

6 ALJ Marc Stern
Arizona Corporation Commission/Hearing Division
1200 West Washington
7 Phoenix, AZ 85007

8

Richard McCullum, Jr.
5703 Laurel Canyon Blvd., #306
9 Valley Village, CA 91607

10

Leah Atwood
5746 South Estrella Road, No. 2
11 Gold Canyon, AZ 85118-

12

Five Star Tree and Landscapes, LLC
5746 South Estrella Road, No. 2
13 Gold Canyon, AZ 85118-

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